No. 08-174

Supreme Court, U.S.
FILED
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In The

Supreme Court of the United States

JUDY WANG,

Petitioner,

v.

PRUDENTIAL FINANCIAL CORPORATION AND PRUDENTIAL INSURANCE COMPANY OF AMERICA, D/B/A PRUDENTIAL INSURANCE COMPANY,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR REHEARING

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APPENDIX B – Incoming phone call from Prudential's Attorney David Johnson on 10/15/2007, 10.28 am to request the extension. *See* Pet. App. 3a. Defendants failed to file timely.

APPENDIX C – "Development Case Topsheet" from Prudential's Denise Cashman. (C.R. 513-517, PRU00431-432). *See* Pet. App. 4a, 5a.

APPENDIX D – Wang's e-mail to Richard Treta and Bobbie Smith on ***9/19/2004***: "commission with $8400 annual premium was not calculated – V6060183 vs. V6059550". (PRU000997). *See* Pet. App. 5a-7a.

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APPENDIX G – Affidavit of Alexander Cheng Concerning Richard Wang. *See* Pet. App. 12a-14a.

APPENDIX H – Affidavit of Theresa Thombs Concerning Ms. Charlene Weathers. *See* Pet. App. 15a-17a.

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GROUNDS FOR GRANTING REHEARING:

Petitioner "Wang," the former employee of Respondents "Prudential," respectfully submits the following in support of her Petition for Rehearing:

I.

District court erred in ruling on 9/11/2006, "Plaintiff has failed to show good cause for the continuance she seeks" (C.R.436). The decision wrongfully relied on an assumption of incorrect facts due to the absence of "known concealed facts" and misrepresentation of facts, by Prudential under Wang's surrounding circumstances.

On 8/24/2006, Wang's "Withdrawal Agreement" with her former attorney Raul Loya was not a "*Mutual Consent.*" When Wang signed the agreement, she was not aware that pages were missing. (C.R.394-395). The missing pages provided that: "The withdrawal of movant as counsel for Plaintiff will not disrupt the suit . . . Amended Pleadings due by 9/8/2006 . . . " was not informed prior to my signing. Therefore, *it was a fraud.* Wang was very scared and sent the following e-mail to Prudential's attorney, Thomas Reddin, after signing the agreement:

> "From: Judy Wang
> [mailto:judy.wang@aaachamber.com]
> Sent: Thursday, August 24, 2006 8:39 PM
> To: Thomas E. Reddin
> Subject: is there still having Justice? Or is it just a money business?
> Importance: High"

"He had his secretary giving me last two pages paper to read and sign and then gave me copy of total 5 pages withdrawing paper document including the 3 pages I did not read prior my signature . . . What are my options now? Can I speak to the Judge?" *See* Pet. App. 1a-2a.

Wang's e-mail to Reddin, as shown, Wang was afraid of Loya at that time and was afraid to present this to the court. (Loya was a former football player, and he is as big as O J Simpson!). Prudential knew the facts, concealed the facts, objected by motion (Doc.55) and gave as a reason: that Wang agreed to this statement, as indicated by her signature. (C.R.419). Agreement's lack of mutuality undermines the integrity of the withdrawal proceeding and should constitute sufficient grounds to set it aside. This court is entitled to consider a party's dishonesty about a material fact as "affirmative evidence of guilt." *See Reeves v. Sanderson Plumbing,* 530 U.S. 133 (2000); *Smith v. City of Jackson*, 544 U.S. 228 (2005).

Prudential further misled the court that "There was no showing of any diligence." (C.R.419). Wang was diligent in discovering new evidence. *See Hopkins v. Ratliff,* 957 S.W.2d 300, 301 (Ky. App. 1997). Prudential's initial disclosure was not served until 04/06/2006. (C.R.95). "*Defendants have not responded to the Plaintiff's request for production of documents or interrogatories.*" (C.R.252). "Prudential has possession of all relevant documents including employee files, investigative files, all relevant electronic evidence that they have failed to produce in response to

Plaintiff's Request for Production of Documents" (C.R.255). On 8/31/**2006**, Wang filed motion to compel access to employment records. It was the *third* request following *11/17/**2004***, and *11/24/**2004*** (C.R.408, 411); requested EEOC files (Doc.50), ***Termination Procedure, Employment Handbook*** *on 03/31/**2005** (C.R.417)*. Prudential failed to disclose documents to the opponent.

Wang did not have adequate time to hire a replacement counsel. As a pro se she was required to study Local FRCP Rules, review the previous 47 court documents **within 8 days** to meet "*Amended Pleading*" (C.R.403-404) deadline. English is Wang's second language. She misunderstood "*Amended*" as "In addition to" in her Second Amended Pleadings and the district court dismissed prior TORT and *DEFAMATION* claims. The suit was already disrupted.

Legal counsel's withdrawal has been considered a reasonable, unforeseeable occurrence and constitutes "good cause" without regard to its basis or predictability. *See Madden v. Texas*, 498 U.S. 1301 (1991) wherein "Good cause is found to grant 30-day extensions of time . . . to find replacement counsel." It implies that district court not only abused its discretion but its attitude was unreasonable, arbitrary or unconscionable. *See Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

II.

Fifth Circuit wrongfully granted "extension of time" as a "PRIVILEGE" not a "RIGHT" in favor of Prudential but "Affirmed" denying Wang, a protected class, similar "extension of time."

Prudential Appellee's Brief was initially due 10/17/2007, but was not filed until 11/20/2007, 33 days late, a Level II extension without written motion, without accompaniment of an "AFFIDAVIT" from either one of the attorneys, and without applying within the required 7 days before the due date. It failed to comply with Rules 26, 27, and 31 of FRAP to justify either Level I or Level II extension. The only effort Prudential made was: Wang received an incoming phone call from Prudential's Attorney David Johnson on **10/15/2007, 10:28 am** (817-420-8223), *see* Pet. App. 3a, to request the extension. "When a party seeking the extension is not diligent, the good cause inquiry ends." *Tampa Bay Storm v. Arena Football League*, No. 96-29-CIV-T-17C, 1998 U.S. Dist. LEXIS 5211 (M.D. Fla. Mar. 19, 1998). Prudential failed to show that, despite its diligence, the established timetable could not be met. *Briesacher v. AMG Res., Inc.*, No. 2:03 CV331, 2005 U.S. Dist. LEXIS 37394, at 5 (N.D. Ind. Aug. 31, 2005). (C.R.419). The Fifth Circuit decision conflicts with Wang's similar motion for extension of time. The same court denied Wang's appeal (No. 3:05-CV-2091), but affirmed a different case (No. 3:05-CV-0891).

Pursuant to Fifth Circuit Rule 26.2, "Appeals which are not processed timely will be dismissed for want of prosecution without further notice under Fifth Circuit Rule 42."

The lower courts failed to preserve uniformity of decision in applying "extension of time" for granting "GOOD CAUSE SHOWN" standard.

III.

Wang was wrongfully terminated. The "misconduct" cases Prudential articulated had been consolidated and closed with verbal training as a final action prior to her termination.

The internal "misconduct" cases Prudential relied on 10/08/2004 to dismiss Wang had been dismissed prior to 09/16/2004; therefore, they were not grounds or precedent. It is evidenced by the "DEVELOPMENT CASE TOPSHEET" from 5/18/2004 to 9/16/2004, "the case number 2004-003104 was consolidated with 2004-002713 and was closed as a "final action with verbal training" from Prudential's Denise Cashman. (C.R.513-517, PRU00431-432). *See* Pet. App. 4a, 5a. "The *employer indicated a definite intent to be bound not to terminate Wang under clearly specified circumstance.*" (C.R.474).

Treta did recommend terminating Wang on **06/15/2004**. At that time, Treta attempted to improve his agency's ranking from bottom of 69/72 to save his

job. Prudential also experienced "Reduction In Force." *See* 2005 Prudential Annual Financial Report, pages 23-25. Wang was the oldest Chinese agent. But an exception was recommended after a 7 month investigation, and the final action was taken on **09/16/2004** not to terminate Wang. The real rationality was Wang actively participated in claiming a disputed commission, evidence by Wang's e-mail to Richard Treta on **09/19/2004**: "commission with $8400 annual premium was not calculated." (PRU000997). *See* Pet. App. 5a-7a. This activity is protected under Title VII and evidenced by e-mail from Kathryn Evans to Bobbie Shanklin on 10/05/2004 (PRU001010). *See* Pet. App. 8a-9a. Wang was told to be paid on 10/08/2004. Then Wang was suddenly terminated. This commission was reassigned to Richard Wang by using his personal e-mail address and home computer, against company provided legal procedures, to protect client's confidentiality and security, but secretly to solicit Judy Wang's client to sign the "changed agent" form to make Richard Wang as a new agent to claim Judy Wang's unpaid commission. (C.R.772-774). Client provided the evidences to Wang. Prudential based on evidences, *See* Pet. App. 12a-14a, agreed to pay Wang according to Prudential's determination letter on 01/21/2005 and 05/04/2005 after 7 month internal investigation. But this check was withheld until **12/20/2005 (C.R.961)** after district court granting summary judgment on **12/13/2006** in favor of Prudential to cover up for discrimina tion. Wang should receive this check within **6** days after employment separation. *See* Section 21 of

Texas Labor Code. As in the past, Wang's compensation was removed unfairly to others. One time it was to Richard Wang to boost his **first** month production up to **$22,000** and his supervisors were awarded higher bonuses because his new superstar status. Wang did not resolve further due to workload. It was the first time Wang complained about her discriminated compensation, and ultimately adverse employment occurred. Judy Wang was terminated, but young Richard Wang is still employed.

On 09/03/2004, Wang passed HS318 through American College program instead of University of Dallas program supported by Treta. That night, Wang's desk was wrecked by throwing everything down to the floor from the top of her desk. This occurred once before. On 10/02/2004, Treta made a sexual advance towards Wang which was unwelcomed and rebuffed by Wang again. Treta retaliated against Wang. (Doc.89). On 10/08/2004 at 3:45 p.m., Wang was restricted by security guards on each arm to prevent her from reaching her personal properties which were seized without her consent for three weeks and returned with severe damages. (C.R.550,551,600.)

NASD (now FINRA) did a phone interview with Charlene Weathers to verify her and John and Judy's special "family" bonding (Judy was a single parent, met Weathers when John was 4 months old). Also *see* Pet. App. 15a-17a. With Weather's two **disclosure statements** (C.R.905-908), NASD dismissed "Letter of Caution" on 09/29/2006 (C.R.530), and further reinstated Wang's "65 license" (C.R.791) without her

taking another exam because Prudential failed to register Wang. (C.R.546, 796). Treta slandered and defamed Wang with false and defamatory statements in the "process of termination" which was within the 300 days statute of limitations. **Prudential terminated Wang for "impermissible reason."**

> "It shall be an unlawful employment practice for an employer to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin . . . " 42 U.S.C. § 2000e-2(a)(1). *See EEOC v. Delaware Dept. of Health and Social Service*, 865 F.2d 1408, 1412-13 (3d Cir. 1989).

Pursuant to 28 U.S.C. § 1658, there is a four-year statute of limitations of section 1981 claims, no requirement to file with EEOC. State court has concurrent jurisdiction with federal district court. *See Jones v. R.R. Donnelley & Sons Co.*, 124 S. Ct. 1836, 1842 (2004). § 1658. "At-will employee could sue former employer under 42 U.S.C. § 1981." *See Spriggs v. Diamond Auto Glass*, 165 F.3d 1015 (4th Cir. 1999). Wang is protected under this statute.

Pursuant to Rule 56 of FRCP "The court must view the evidence in the light most favorable to the party against whom summary judgment is sought and must draw all reasonable inferences in [its] favor." *See*: *Matsushita Elec. Indus. Co. Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). The moving party has the initial burden of demonstrating the

absence of a disputed issue of material fact. *Celotex v. Catrett*, 477 U.S. 317, 323 (1986). Once such a showing has been made, the non-moving party must present "specific facts showing that there is a genuine issue for trial."

Prudential did not respond Wang's "Request for Production" until ***10/10/2006*** and then filed Summary Judgment motion the next day on ***10/11/2006***, not "after adequate discovery as Prudential stated at the Joint Status Report" (C.R.174,184) to cause Wang not to have enough time to examine in detail (C.R.561) and identify the evidences from *1332 pages of PRU000001-PRU001332*. (C.R.513-517) and tried to response the summary judgment at the same time.

Wang responded with 27 discrimination facts in good faith (C.R.544-551) in chronological order, which identified the specific discrimination in detail and supported it with copy of official documents (C.R.620-722). **There were copies of** Prudential's own documents, e-mails should be admitted as "documentary evidence" even if it was without Wang's sworn statement." It did not rely on conclusory allegations or unsubstantiated speculation. *See Scotto v. Almenas*, 143 F.3d 105, 114 (2d Cir. 1998), but district court **excluded all the evidence**. Wang's ignorance of law caused her to realize that **Wang should submit the facts in the form of affidavit**, but corrected this with **11 affidavits** within her second "Joint Status Report" (C.R.765-925) and filed Reconsideration Motion (Doc.88), but was denied on **01/05/2007**. (Doc.90). Pursuant to Fed. R. Civ. P. 56(f)(2), district

court abused its discretion in declining to admit the supplemental affidavits **prior to discovery due**, failed to reasonably accommodate Wang's limited English proficiency ("LEP") and to "order a continuance to enable affidavits to be obtained." Wang came forward with contrary evidence to be tried. This is a procedural error, not facts without merit and should be taken into account for consideration since the affidavits from Prudential did not contain the correct information and should be struck. Prudential's affidavits are insufficient to challenge the entirety of Wang's merits, "what really happened." If "evidentiary matter in support of the motion does not establish the absence of a genuine issue, summary judgment must be denied even if no opposing evidentiary matter is presented." Fed. R. Civ. P. 56(e) advisory committee note (1963). *See Gordon v. Watson*, 622 F.2d 120, 123 (5th Cir. 1980) (per curiam).

But new evidences were discovered that Treta sent a letter to Wang's former client, Wenqin Li, to inform her that **Kirsten Lowe**, a **younger Caucasian**, has been designated as Li's new agent to replace Wang. (C.R.1319-1321). But Wang was not aware of this until Wang accidentally met Li at Chinese supermarket. At which time Li gave Wang that letter which proved that Wang's job was replaced by an outside protected class. Wang met the 4th element to establish the *prima facie* case of Discrimination under ADEA. The same style, same date letter was also sent to client Ching Wu that Richard Wang (C.R.631) became Wu's new agent. Client Theresa

Thombs received a letter that Terry Dunn, a Caucasian, would be Thombs's new agent. *See* Pet. App. 18a-20a. Dale White and John Navarro, both are outside protected class and much younger than Wang, were hired after Wang's termination. (C.R.864-866,935). Wang was not a salaried employee and earnings were based on commission and reviewable commission from the established clients. Wang's former clients were reassigned to new agents by Treta by the above letters to receive Wang's reviewable commission. Wang's job was replaced and lost 5 years reviewable commission. Treta lied in his affidavit (Doc.68) and the district court failed to evaluate the facts within the Affidavit. In *Reeves v. Sanderson Plumbing Products, Inc.*, the Court clarified that cases should not be summarily decided if the Plaintiff produces evidence of a *prima facie* case of discrimination. Summary judgment was prematurely entered before the close of the discovery, and therefore forms a basis to disturb the judgment.

Wang did not fail to exhaust the Administrative remedies with EEOC (C.R.560). But EEOC lost Wang's files as evidenced by the letter from Director Robert Canino, Regional Attorney of Dallas District of EEOC to Wang on 09/12/2006 that "There is record in our data base that EEOC investigative file did exist. The file cannot be found." *See* Pet. App. 10a-11a. Pursuant to FRCP 56(e), "EEOC is withholding valuable and relevant information on this case" (C.R.567-568) and that the disputes over facts might affect the outcome of this suit under the governing

law and preclude the summary judgment. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 248 (1986).

ARGUMENTATION

In *Lujan v. National Wildlife Federation*, 497 U.S. 871, 896 n.5, 110 S.Ct. 3177, 111 L.Ed.2d 695 (1990), the Court emphasized the distinction between Fed. R. Civ. P. 6(b) and Rule 6(b)(1) which allows grant of an extension if a "request" is made **before** the time for filing expires, but **post-deadline extension** may be granted **only "for cause shown"** and "upon motion." Wang filed timely motion **prior** to Amended Pleadings being due, **not post-deadline** extension. Pursuant to Fed. R. Civ. P. 16(b)(4): "A schedule may be modified only for good cause and with the judge's consent." And considering all the facts and procedural history, Wang's difficult circumstances should constitute as "Good Cause Shown" and granted timely motion for extension of time. Prudential has not only omitted material facts, but has materially misrepresented the facts and exhibited a pattern of bad faith. Prudential accordingly cannot meet its burden of proof.

"It is often impracticable to require a plaintiff whose job was eliminated to show replacement." *See Dreyer v. ARCO Chemical Co.*, 801 F.2d 651, 653 (3d Cir. 1986), and *Anderson v. CRNRAIL*, 297 F.3d 242 (3d Cir. 2002). But Wang meets all the 4 elements of the *prima facie* case; therefore summary judgment

was improper. Summary Judgment is proper only if there is no genuine issue of material fact in the employment discrimination case. *See Visser v. Packer Engineering Associates, Inc.*, 924 F.2d 655 (7th Cir. 1991) (en banc). ***Prudential presents no evidence that Wang was not qualified or not treated less favorably, and offers no reason for the action taken against Wang. The judgment should be reversed.*** *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-03 (1973).

The determination of whether neglect was excusable or inexcusable "must of necessity take into consideration all the surrounding facts and circumstances." *Griffey v. Rajan*, 33 Ohio St.3d 75, 79, 514 N.E.2d 1122, 1126 (1987), quoting *Colley v. Bazell*, 64 Ohio St.2d 243, 249, 416 N.E.2d 605, 609 (1980). "Courts must also remain mindful of the admonition that cases should be decided upon their merits, where possible, rather than on procedural grounds." *Griffey*, supra, at 79 and 81, 514 N.E.2d at 1126, and 1127. Wang was not allowed any mistakes; whereas, Prudential was granted several mistakes. Discrimination against Wang is obvious.

CONCLUSION

Wang is a victim of employment discrimination, a member of a class protected by relevant statutes. Pursuant to RULE 44, RULES OF THE SUPREME COURT, this **Petition for Rehearing**, based on the above intervening circumstances of a substantial or controlling effect, and other substantial grounds not previously presented, **should be granted**.

Respectfully submitted,

JUDY WANG, CHFC
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CERTIFICATE OF GOOD FAITH

Petitioner hereby certifies that the foregoing Petition for Rehearing, was Submitted in good faith and not for purposes of delay.

This 10th day of November, 2008

JUDY WANG, CHFC
P.O. Box 15632
Fort Worth, TX 76119
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APPENDIX A – Wang's E-mail to Thomas Reddin on 08/24/2006 when Rawl Loya Withdrawal

From: Judy Wang [mailto:judy.wang@aaachamber.com]
Sent: Thursday, August 24, 2006 8:39 PM
To: Thomas E. Reddin
Subject: is there still having Justice? Or is it just a money business?
Importance: High

He had his secretary giving me last two pages paper to read and sign and then gave me copy of total 5 pages withdrawing paper document including the 3 pages I did not read prior my signature. He is not going to let the Judge sign the paper until next week. He will continue to play the game until he is SAFE and I am dead. There is no sign of returning my $5000 of $10,000 fee. He did not spend more than 5 hours work. He hid the court papers from me until my old friend Joe Orr (legal council for World Affair Council) told me that I could go to the courthouse to get the paper. I should get the Discovery paper to reply on 3/10/2006, but his secretary did not give to me until 4/24/2006 without any instruction and then my aunty passing on 4/25/2006. Up to 5/25/2006, I was still writing the paper all night and missed the plant and had to take the next one to go to Hawaii to attend my son's wedding. He told me he was going to me on that Sunday to review the papers but he never showed up. He is not interested in

reading the discovery at all and I was so upset and lost my cell phone . . .

He still did not give back my files and money. What are my options now? Can I speak to the Judge?

My case has not been represented at all! There is no Justice at all!

I know my case very well. I just want to present the facts and get my fair share.

Please keep this information confidential for my personal safety.

Thanks.

Plaintiff,

Judy Wang, ChFC

ACCOUNT NAME	ACCOUNT NUMBER	TELEPHONE NUMBER
JUDY WANG	000161654	817-475-4783

10/14/07	19:56	FORT WORTH	TX	817-878-2406	NW	1.00	.00
10/14/07	23:17	PLANO	TX	972-491-0683	NW	2.00	.00
10/15/07	10:11	CRESSON	TX	817-396-4563	WD	8.00	.00
10/15/07	10:28	INCOMING	CL	817-420-8223	WD	1.00	.00
10/15/07	21:12	PLANO	TX	972-491-0683	NW	15.00	.00
10/15/07	21:36	PLANO	TX	972-202-0788	NW	5.00	.00
10/16/07	9:29	GRAND PRAR	TX	469-733-6292	WD	2.00	.00
10/16/07	13:30	CRESSON	TX	817-396-4729	WD	5.00	.00
10/16/07	14:01	INCOMING	CL	408-568-2336	WD	2.00	.00
10/16/07	16:47	PLANO	TX	972-202-0788	WD	1.00	.00
10/16/07	18:09	CARROLLTON	TX	972-416-0370	WD	1.00	.00
10/16/07	18:12	800 SERVIC	CL	800-669-3900	WD	1.00	.00
10/16/07	20:42	PLANO	TX	972-202-0788	WD	1.00	.00
10/16/07	21:37	PLANO	TX	972-202-0788	NW	12.00	.00
10/16/07	23:27	INCOMING	CL	408-568-2336	NW	7.00	.00
10/17/07	12:04	FORT WORTH	TX	817-420-8223	WD	1.00	.00
10/17/07	12:05	DALLAS	TX	214-745-5400	WD	1.00	.00
10/17/07	12:06	DALLAS	TX	214-745-5400	WD	2.00	.00
10/17/07	16:19	CRESSON	TX	817-396-4729	WD	1.00	.00
10/17/07	19:57	NEW YORK	NY	212-431-8258	WD	4.00	.00
10/17/07	21:19	PLANO	TX	972-985-4798	NW	6.00	.00
10/17/07	23:40	FRISCO	TX	214-705-8338	NW	1.00	.00
10/17/07	23:52	SAN JOSE S	CA	408-528-2336	NW	1.00	.00
10/17/07	23:53	MADERA	CA	559-674-8391	NW	10.00	.00
10/18/07	1:15	MADERA	CA	559-674-8391	NW	8.00	.00
10/18/07	10:59	FORT WORTH	TX	817-420-8223	WD	3.00	.00
10/18/07	15:14	800 SERVIC	CL	800-669-3900	WD	1.00	.00
10/18/07	16:11	CARROLLTON	TX	972-416-0370	WD	1.00	.00
10/18/07	16:58	PLANO	TX	972-985-4798	WD	11.00	.00
10/18/07	18:20	GRAND PRAR	TX	214-642-9977	WD	1.00	.00
10/18/07	18:28	GRAND PRAR	TX	214-642-9977	WD	1.00	.00
10/18/07	18:51	GRAND PRAR	TX	214-642-9977	WD	2.00	.00
10/18/07	19:02	ARLINGTON	TX	817-937-3824	WD	1.00	.00
10/18/07	21:36	PLANO	TX	972-491-0683	NW	20.00	.00
10/19/07	10:02	PLANO	TX	972-202-0788	WD	1.00	.00
10/19/07	10:02	PLANO	TX	972-491-0683	WD	3.00	.00
10/19/07	11:08	INCOMING	CL	817-923-2729	WD	3.00	.00
10/19/07	11:27	FORT WORTH	TX	817-926-9868	WD	1.00	.00
10/19/07	14:27	800 SERVIC	CL	800-669-3900	WD	4.00	.00
10/19/07	15:09	800 SERVIC	CL	800-669-3900	WD	2.00	.00
10/19/07	18:54	PLANO	TX	972-202-0788	WD	4.00	.00
10/19/07	18:59	PLANO	TX	972-202-0788	WD	2.00	.00
10/19/07	21:15	FORT WORTH	TX	817-926-9868	NW	2.00	.00
10/19/07	22:25	FORT WORTH	TX	817-923-2729	NW	1.00	.00
10/19/07	22:28	DALLAS	TX	972-910-0040	NW	2.00	.00
10/19/07	22:32	FORT WORTH	TX	817-292-6898	NW	3.00	.00
10/20/07	7:03	DALLAS	TX	972-910-0040	NW	1.00	.00
10/20/07	15:04	PLANO	TX	972-985-4798	NW	1.00	.00
10/20/07	15:04	FORT WORTH	TX	817-534-8119	NW	1.00	.00
10/20/07	15:38	GRAND PRAR	TX	469-261-1261	NW	1.00	.00
10/20/07	15:39	GRAND PRAR	TX	469-261-1261	NW	1.00	.00
10/20/07	16:44	CRESSON	TX	817-396-4459	NW	1.00	.00
10/20/07	16:49	FORT WORTH	TX	817-246-5227	NW	2.00	.00
10/20/07	16:57	FORT WORTH	TX	817-246-5227	NW	11.00	.00
10/20/07	23:04	FORT WORTH	TX	817-926-9868	NW	1.00	.00
10/21/07	1:00	FORT WORTH	TX	817-926-9868	NW	1.00	.00
10/21/07	17:07	CARROLLTON	TX	972-416-0370	NW	3.00	.00
10/21/07	17:18	FRISCO	TX	214-705-8338	NW	1.00	.00

Pet. App. 3

APPENDIX B - incoming phone call from Prudential's Attorney David Johnson on 10/15/2007, 10:28 am to request the extension

BEST AVAILABLE COPY

DEVELOPMENT CASE TOPSHEET

Case Number:	2004-003104	**Agent Name:**	WANG, JUDY
PPS Case Number:	040501070-00	**Contract Number:**	816258
SPOCS Case Number:	TX01-01108		
Start Date:	5/18/2004	**Service Date:**	9/13/1999
Closed Date:	9/16/2004	**Agency Code:**	TX01
Final Action:	Consolidated Case	**Region:**	E
Final Action Date:	9/16/2004	**Managing Director:**	
RCRM Contact:	Denise Cashman		
RCRM Manager:			

Pet. App. 4
APPENDIX C -
"Development Case Topsheet"
from Prudential's Denise Cashman.
(C.R. 513-517, PRU00431-432).

Case Information:

Client Name:	**WEATHERS, CHARLENE**	**Substantiated:**	
Policy Number:	**V6057238**	**Referred by:**	**Field Office**
Product Type:	**ULII PRULIFE UNIVERSAL PLUS**	**Source:**	**Underwriting**
Primary Questioned Activity:	Misconduct		
Supplemental Questioned Activity:			

Case Summary:

Conflict of interest as Agent's son listed as primary bene. No exception was made by agency Mgmt.
Case is permanently rejected - MD recommends closing with verbal training.
Training

RCRM Analysis:

Referral Information:

Date Referred:	**Referred To:**
Date Returned:	

Disposition:

Date Letter Sent:		**MD Recommended Action:**	Training
Date Acknowledged:		**RCRM Recommended Action:**	
Date Returned to RCRM:		**Final Action Taken:**	Consolidated Case

Comments:		
d001479	9/16/2004 11:31:19 AM	Case Consolidated with 2004-002713 . Case Closed
N355538	6/2/2004 1:46:22 PM	Sent lotus note to Agency Management requesting a recommended action.
N355538	5/27/2004 9:22:21 AM	Received agent statement, Agency Mgmt will also work with VTOC Lorinc to see if an exception request is acceptable.
N355538	5/21/2004 9:14:21 AM	Sent lotus note to Agency Management requesting statement and recommendation. An ownership change was completed on V6044476 naming agent's son as owner of Charlene Weathers existing policy. Was management aware of this and do they feel it is ok?
n344038	5/19/2004 4:42:22 PM	RCRM name changed to Denise Cashman.
n344038	5/19/2004 4:42:21 PM	RCRM name changed to Denise Cashman.

APPENDIX D – Wang's e-mail to Richard Treta and Bobbie Smith on 9/19/2004: "commission with $8400 annually premium was not calculated – V6060183 vs. V6059550". (PRU000997).

Judy X Wang
TX01
Phone Number: 972-910-0040 ext 7244
Fax Number: 972-910-0583

Sunday September 19, 2004 11:41 PM

To: Richard Treta/IIG/Prudential @Prudential, NBST@Prudential

cc: Bobbie Smith/IIG/Prudential, Kathryn Evans/IIG/Prudential

Subject: commission with $8400 annually premium was not calculated – V6060183 vs V6059550

Hi Rich,

After 5 years, I finally learn to check my commission. **I caught a hugh error**.

The commission was calculated completed wrong and will affect my compensation and bonus.

1. **V6059550** was applied at $350,000 VUL with Premium non-smoker rate, $500/month. It was approved as **E rating** with 997.00.

2. The amount was decreased to $250,000, **with $700.00/month as V6060183**.

Due to policy # was changed, the annual premium $5984.40 was taken off after the positive delivery, but

the new annual premium $8400.00 was not added into it. **The whole case commission pay was only $350.00.**

I think it was confused as $100,00.00 Term Essential L1039925 which is annual premium $584.00.

There is several thousand dollars difference. Please correct immediately.

Thanks. Judy X Wang

APPENDIX E – e-mail from Kathryn Evans to Bobbie Shanklin, dated 10/5/2004 (PRU001010), and "This affected her quarterly bonus as well as not getting paid full commission".

Kathryn Evans
Operations & Controls Manager –
TX01 – Lone Star Agency
Phone Number: 972-910-0040 ext 7226
Fax Number: 972-910-0583

Tuesday October 5, 2004 06:10 PM

To: Bobbie Shanklin/IIG/Prudential@Prudential

cc:

Subject: Ask Field Compensation Question No. 43627 is Closed

Bobbie, can you please work on this appeal for me. This affected her quarterly bonus as well as not getting paid full commission.

Thanks!

– Forwarded by Kathryn Evans/IIG/Prudential on 10/05/2004 06:09 PM –

Ask Field Compensation

Sent by: Ask Field Compensation

TO REPLY TO THIS NOTE, CLICK ON THE LINK BELOW

To: Judy X Wang/IIG/Prudential@Prudential

cc: Bobbie Smith/IIG/Prudential,
Kathryn Evans/IIG/Prudential,
Richard Treta/IIG/Prudential

Subject: Ask Field Compensation Question No. 43627 is Closed

Wednesday September 29, 2004 09:34 AM

Your Question is:

Please make an exception to have this placed policy changed to reflect $700/month payment.

Our Response is:

09/29/2004 09:32:09 AM –

To correct the billed premium to $700.00/months please contact VUL post issue area at **866-GET-PRU8 (866-438-7788)**. When the Billed premium will be adjusted on-line you would need to submit appeal through your Managing director.

>> Thank you for using the Ask Field Compensation database

Great care has been taken to ensure the accuracy of our response, based on the information available to us at this time. Should you have further questions/comments regarding our response, you may contact us directly by clicking on the Reply link below.

APPENDIX F – the letter sent from Director Robert Canino, Regional Attorney of Dallas District of EEOC to Wang on 9/12/2006 that "There is record in our data base that EEOC investigative file did exist. However, at this time, the file cannot be found."

[LOGO] **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
Dallas District Office

September 12, 2006

Judy Wang
P.O. Box 15632
Fort Worth, Texas 76119

FOIA No.: A6-11-FOIA-680-DA

CHARGE NUMBER: 310-2005-04482

(Filed July 26, 2007)

Dear Ms. Wang:

The Dallas and Oklahoma District Offices conducted a diligent search for the investigative file responsive to your inquiry with respect to Judy Wang v. Prudential Financial Corporation, but have been unable to locate it. There is record in our data base that the EEOC investigative file did exist. However, at this time, the file cannot be found. The Dallas and Oklahoma District Office will continue to search for the file.

You may appeal my determination of your request by writing within thirty days of receipt of this

letter to Assistant Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507. Your appeal will be [illegible] 29 C.F.R. § 1610.11 which requires that you attach a copy of the Regional Attorney's determination with the FOIA appeal.

Sincerely,

/s/ Robert A. Canino
Robert Canino
Regional Attorney

UNITED STATES DISRTICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

[EXHIBIT 51]

JUDY WANG,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION
PRUDENTIAL FINANCIAL CORPORATION, PRUDENTIAL INSURANCE COMPANY OF AMERICA, D/B/A PRUDENTIAL INSURANCE COMPANY RICHARD TRETA	§	No. 3-5CV2091-B
	§	
	§	
	§	
	§	
	§	
Defendants.	§	

AFFIDAVIT OF ALEXANDER CHENG

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, came on this day Alexander Cheng, who Being personally known to me, was sworn and stated under oath as follows:

1. My name is Alexander Cheng. I am over 21 years of age and am competent in all respects to make this Affidavit. I swear that the facts set forth in this Affidavit is within my personal knowledge and is true and correct.

2. I remember and witness that I along with my wife and my daughter attended the July 4, 2004 celebration at Prudential Irving Judy Wang's office at 5215 N. O'Connor Blvd, Suite 700, Irving, TX 75039.

3. There were some other guests attending too, including Katherine Dress, Lilly White, Kain Chan and his wife, and others, including the other Prudential agent Richard Wang, his wife, and their small son. We were enjoying eating the delicious food that Judy Wang prepared for us and watched the firework through the window. It was a perfect space to avoid the outdoor mosquito bites and the crowds.

4. When I was there, I heard Richard Wang was telling Judy Wang that "Why do you need to work so hard, you are so old already? You should resign and give your clients to me" and his wife repeated the same message again to Judy Wang. I was behind of them and they did not see me. I did not say anything to them.

5. A few months later around October 2004, I received a phone call from Richard Wang that he just got back from vocation and the company had reassigned my life insurance policy to Richard Wang that he further asked me to sign the "Transfer Report Serving Responsibility". (Exhibit A). He stated that my agent Judy Wang already left Prudential. My wife and my daughter also have the life policies but he did not say anything about it. I

was totally shocked because Judy Wang did not tell me that she already left Prudential. Everything looked very strange to me and I contacted Judy Wang and provided Judy Wang the email Richard Wang sent out from his home computer v from Prudential office computer. (Exhibit B).

FURTHER AFFIANT SAITH NAUGHT.

/s/ Alexander Cheng
ALEXANDER CHENG

SUBSCRIBED AND SWORN TO BEFORE ME BY the said Alexander Cheng on this 29th of day of May, 2007 to certify which witness my hand and official seal.

/s/ Wendy Kao
Notary Public in and
for the State of Texas

My Commission expires:

10-24-2010

[SEAL] WENDY KAO
MY COMMISSION EXPIRES
October 24, 2010

/s/ Wendy Kao
Printed Name
of Notary

[Exhibits Omitted In Printing]

UNITED STATES DISRTICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

[EXHIBIT 9]

JUDY WANG,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION
	§	No. 3-5CV2091-B
PRUDENTIAL FINANCIAL CORPORATION, PRUDENTIAL	§	
INSURANCE COMPANY OF	§	
AMERICA, D/B/A PRUDENTIAL	§	
INSURANCE COMPANY	§	
RICHARD TRETA	§	
	§	
Defendants.		

AFFIDAVIT OF THERESA THOMBS
CONCERNING MS. CHARLENE WEATHERS

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, came on this day Theresa Thombs, who Being personally known to me, was sworn and stated under oath as follows:

1. My name is Theresa Thombs. I am over 21 years of age and am competent in all respects to make this Affidavit. I swear that the facts set forth in this Affidavit is within

my personal knowledge and is true and correct.

2. I have known Judy Wang and Charlene Weathers for more than ten years.

3. When Judy Wang was unable to answer her cell phone, the phone would forward to me. Charlene Weathers called Judy Wang constantly and she would introduce herself as Wang's Texas mother. Judy also accompanied Ms. Weathers to my home for dinner therefore she would be able to have social Activities besides the routine grocery shopping, driving to doctor appointments, banking and the other daily needs with Judy's aid and expenses.

4. Ms. Weathers constantly talks about Judy's son, John Michael Wang, he is her only grandson that she helped to raise him since he was four months old. She is so proud of his admission to MIT with the scholarship of EDS which Was in partnership with the Education Employee Credit Union (EECU), her and Judy's bank. She attended the award ceremony when John was the Captain of UIL State Champion Computer Programming. He also was awarded the 4-year scholarship from Texas Higher Education. She attended John's graduation from MIT, his wedding, etc. and other family activities as part of the Wang family.

5. Ms. Weathers had three children but none of them are close to her. Therefore Judy is the

only "close family member" who can attend to her daily needs.

6. Ms. Weathers has considered Judy her daughter and John her grandson for as long as I have known Judy Wang.

7. I have known Judy Wang for more than ten years. I have never known her to be a dishonest person. If I had, I never would have invested my money with her.

FURTHER AFFIANT SAITH NAUGHT.

/s/ Theresa M. Thombs
THERESA THOMBS

SUBSCRIBED AND SWORN TO BEFORE ME BY the said Alexander Cheng on this 29 of day of May, 2007 to certify which witness my hand and official seal.

/s/ Nancy B. Carter
Notary Public in and
for the State of Texas

My Commission expires:

[SEAL]
NANCY B. CARTER
MY COMMISSION EXPIRES
AUGUST 27, 2010

/s/ Nancy B. Carter
Printed Name
of Notary

UNITED STATES DISRTICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

[EXHIBIT 71]

JUDY WANG,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION
	§	No. 3-5CV2091-B
PRUDENTIAL FINANCIAL CORPORATION, PRUDENTIAL INSURANCE COMPANY OF AMERICA, D/B/A PRUDENTIAL INSURANCE COMPANY RICHARD TRETA	§	
	§	
	§	
	§	
	§	
Defendants.	§	

AFFIDAVIT OF THERESA THOMBS
CONCERNING AGENT TERRY DUNN

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, came on this day Theresa Thombs, who Being personally known to me, was sworn and stated under oath as follows:

1. My name is Theresa Thombs. I am over 21 years of age and am competent in all respects to make this Affidavit. I swear that the facts set forth in this Affidavit is within

my personal knowledge and is true and correct.

2. I filed a complaint on 4/16/2007 with Prudential, regarding the fact that since Judy Wang had been fired, no one was looking at my account since 2004 to insure my money was being allocated to correctly in order to maximize my Investment. I continue to pay the premium, but Judy Wang did not get the earned commission that she had established. She is one of the hard working persons I have ever known, and she is extremely Knowledgeable in products and what she was doing.

3. They assigned an agent named Terry Dunn in North Richland Hills who is Also an Auto and Home insurance agent. My first conversation with him, to me he had no idea what type of policy I had, or what investment portion of it was to be used for. He tried to tell me that Judy Wang had sold me the wrong policy. Upon further research, what I told him was correct that the total death benefit of type B included more then the $250,000. Later it was confirmed by the other senior agent, Bob Meconnie.

4. I later received a letter from Prudential stating that they had made Terry Dunn as my new agent. I will be requesting that he not be assigned as my agent, that I will request Bob Meconnie as my new agent.

FURTHER AFFIANT SAITH NAUGHT.

/s/ Theresa M. Thombs
THERESA THOMBS

SUBSCRIBED AND SWORN TO BEFORE ME BY the said Alexander Cheng on this 29 of day of May, 2007 to certify which witness my hand and official seal.

/s/ Nancy B. Carter
Notary Public in and
for the State of Texas

My Commission expires:

[SEAL] NANCY B. CARTER
MY COMMISSION EXPIRES
AUGUST 27, 2010

/s/ Nancy B. Carter
Printed Name
of Notary